

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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| ANTOINE TUGGLE |) | CASE NO. 3:10cv812 |
| |) | |
| |) | |
| Petitioner, |) | JUDGE JOHN R. ADAMS |
| |) | |
| vs. |) | |
| |) | |
| ROBERT WELCH, WARDEN, |) | |
| |) | |
| Respondent. |) | MEMORANDUM OF OPINION AND |
| |) | ORDER |
| |) | |

This action is before the Court upon objections filed by Petitioner, Antoine Tuggle, to the Report and Recommendation (“the Report”) of Magistrate Judge Kenneth McHargh (Doc. 8).

Tuggle “largely agrees” with Magistrate Judge McHargh’s Report and Recommendation for dismissal. Accordingly, he agrees that this issue is still pending in state court and therefore, he has not completely exhausted his available state remedies. He objects simply, “out of great caution.” Tuggle does not point to any specific error in the Report and Recommendation; rather, he seeks to assert his objection to protect himself in the event he faces a dismissal of a subsequent habeas petition being labeled as untimely filed.

While recognizing Tuggle’s desire to preserve the record, the Court overrules his objections. Upon due consideration, the Court overrules the objections and adopts the Report and Recommended findings and conclusions of Magistrate Judge McHargh and incorporates them herein. Therefore, it is ordered that the complaint is hereby DISMISSED.

The Court hereby ADOPTS the Report and Recommendation in its entirety. Tuggle's objections are overruled and the Court grants Welch's motion to dismiss. Tuggle's complaint is dismissed.

IT IS SO ORDERED.

November 18, 2010

/s/ John R. Adams
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT COURT